(3)

IN THE HIGH COURT OF JUDICATURE AT JABALPUR

Writ Petition No. 3814 of 2000

Petitioners : (1) State of M.P. through Secretary Higher Education Department, Vallabh Bhavan, Bhopal.

(2) Commissioner of Collegiate Education Stapuda Bhavan, Bhopal.

(3) Principal Govt. Degree College Pathalgaon, Jashpur Nagar.

VERSUS

Respondents (1) Shri Rajni Bhushan Mishra S/O Shri Jagannath Mishra aged about 40 years, Asstt. Profeessor Gbvt. College Sarangarh, Distt. Raigarh M.P.

(2) The Madhya Pradesh Administrative Tribunal, Jabalpur (M!P!).

WRIT PETITION UNDER ARTS. 226/227 of THE COnstitution OF INDIA :

XI-HC-22

(63)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P. 3814 सन् 2000

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

DIVISION BENCH*
HON'BLE SHRI K.H.N. KURAGA, CJ &
HON'BLE SHRI L.C. BHADOO, J

27.6.2003:

Mr. Sanjay K.Agrawal learned Deputy AG for the petitioners.
Mr. Prashant Mishra counsel for the respondent No.1.

Heard both the counsel.

1. By this writ petition under Articles 226/227 of the Constitution of India the petitioner/State seeks to challenge the order dated 20.8.1998 passed the M.P. State Administrative Tribunal in T.A. No. 3953/1988 by which the Tribunal allowed the application of Rajni Bhushan Mishra, respondent No.1 herein, and directed the State to regularize the services of respondent no.1 herein in terms of M.P. Regularisation of Ad-hoc Appointment Rules of 1986 (hereinafter referred to as the Rules of 1986).

2. We have heard learned counsel for the parties.

3. It is an admitted fact that respondent No.1 Rajni Bhushan Mishra was appointed as ad hoc Assistant Professor in English, on 27.8.83. Thereafter, he was again appointed on the same post on

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8.1.85 and he continued on that post. Meanwhile, the Rules of 1986 came into force. It is not disputed that respondent No.1 herein was eligible for regularization on the said post in terms of Rule 5 of the Rules of 1986 because he was eligible in accordance with the conditions laid down in the rules for regularization.

4. The main contention of the learned counsel for the petitioner/State is that M.P.Education Service Rules (Collegiate Branch), which prescribe the qualification for the post of Assistant Professor, was amended by notification dated 28.2.87. Earlier the qualification for the post of Assistant Professor was prescribed as Master Degree with second division whereas in the amended provisions the same qualification was retained with an addition that the candidate must also possess the " good academic record". It is also not disputed that the respondent No.1 herein was possessing Second Division Post graduation in English. It has nowhere come on record that the academic record of respondent No.1 herein was not good. Even the learned counsel for the petitioner/State could not lay hand on any material which may show that the academic record of the respondent No.1 herein was not good.

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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5. We have perused the impugned order passed by the Tribunal. The Tribunal has held in the impugned order that the respondent No.1 herein quite apparently possessed the said qualification and therefore, was quite clearly entitled to be considered for regular appointment in terms of the Rules 1986. The petitioners herein have clearly made a mistake in not considering his case for regular appointment keeping in view the qualifications required for the post as per the un-amended recruitment rules. When un-amended rules were in force, at that time the respondent No.1 herein was eligible for regularization as has been held by the learned Tribunal. Even if we take the case otherwise, even after amendment of the Rules, there is nothing on record, which shows that the respondent No.1 was not eligible for regularization.

6. In view of above we do not find any illegality or infirmity in the impugned order. Therefore, we are of the opinion that this petition has no force and the same is liable to be dismissed. Accordingly, the petition is dismissed.

Sd/-
L.C.BHADOO
Judge

Sd/-
Chief Justice

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